

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JEREMY MITCHELL, #466864,

Plaintiff,

vs.

ST. CLAIR COUNTY COURTHOUSE,
ST. CLAIR COUNTY CLERK’S OFFICE,
and JUSTIN FINFROCK,

Defendants.

Case No. 22-cv-02318-JPG

MEMORANDUM AND ORDER

GILBERT, District Judge:

Plaintiff Jeremy Mitchell filed this civil rights action *pro se* pursuant to 42 U.S.C. § 1983 on October 6, 2022. (Doc. 1). In the Complaint, Plaintiff brings claims under the Eighth and Fourteenth Amendments against the defendants for interfering with his answer in St. Clair County Case Nos. 21-FA-0036 (seizure case) and 21-MR-0141 (forfeiture case). (*Id.* at 6). He seeks monetary relief. (*Id.* at 7).

Plaintiff did not prepay the filing fee for this action or file a motion for leave to proceed *in forma pauperis* (IFP motion) without prepaying the full \$402.00 filing fee. In a Notice and Order entered October 6, 2022, the Court required Plaintiff to *either* prepay the full fee or file an IFP motion within thirty days (on or before November 7, 2022). (Doc. 2). He was also ordered to notify the Court within seven (7) days of any address change. *Id.* (“[Y]ou are advised that if your address changes, you must notify the Court within seven days of the change by filing a Notice of Change of Address.”). Finally, Plaintiff was warned that failure to comply with the Order would result in dismissal of the case. *Id.*

The deadline for prepaying the full filing fee or filing an IFP motion expired on November 7, 2022. To date, Plaintiff has not responded to the Court's Order to prepay the fee or file an IFP motion. (Doc. 2). He has not requested an extension of the deadline. Moreover, several documents (Docs. 2 and 3) addressed to Plaintiff have been returned to the Court undeliverable because Plaintiff is "no longer in custody." (Doc. 5, p. 1). Plaintiff has not provided the Court with his updated address. He has violated the Court's Notice and Order (Doc. 2) by failing to pay a filing fee, file an IFP motion, and/or update his address. The Court will not allow this matter to linger any longer.

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice for failure to prosecute the action and for failure to comply with this Court's Notice and Order at Doc. 2. FED. R. CIV. P. 41(b). *See generally* *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7th Cir. 1994). This dismissal does **NOT** count as one of the three "strikes" allotted to Plaintiff under 28 U.S.C. § 1915(g). However, Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, so the filing fee of \$402.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). The Clerk's Office is **DIRECTED** to enter judgment and close this case.

IT IS SO ORDERED.

DATED: 11/14/2022

s/J. Phil Gilbert
J. PHIL GILBERT
United States District Judge